

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 21 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 21-15775

Plaintiff-Appellee,

D.C. No. 1:15-cr-00294-LEK-2

v.

MEMORANDUM*

MICHELLE ESTEVEZ, AKA Tammie Lynn
Kalua,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Hawaii
Leslie E. Kobayashi, District Judge, Presiding

Submitted March 14, 2023**

Before: SILVERMAN, SUNG, and SANCHEZ, Circuit Judges.

Michelle Estevez appeals from the district court's order denying her 28 U.S.C. § 2255 motion to vacate her sentence. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Estevez's counsel has filed a brief stating that there are no

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

grounds for relief, along with a motion to withdraw as counsel of record. Estevez has filed a pro se supplemental brief. No answering brief has been filed.

Our independent review of the briefing and record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses that the certified issue provides no basis for appellate relief. *See Graves v. McEwen*, 731 F.3d 876, 880-81 (9th Cir. 2013). Contrary to Estevez's pro se contention, the record demonstrates that her parole on her 1988 state burglary convictions was revoked in August 2002, after she signed a waiver of extradition, and a custodial sentence was imposed as a result of the revocation.

We treat Estevez's argument that the district court erred at sentencing as a motion to expand the certificate of appealability. So treated, the motion is denied. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999).

Counsel's motion to withdraw is **GRANTED**. Appellee's motion for an extension of time to file an answering brief is denied as moot.

AFFIRMED.